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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,189	09/13/2000	Hannes Eberle	53470.000038	8016

29315 7590 08/13/2002

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC  
ONE FOUNTAIN SQUARE  
11911 FREEDOM DRIVE, SUITE 400  
RESTON, VA 20190

EXAMINER

NOLAN, DANIEL A

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/661,189

Applicant(s)

EBERLE ET AL. *NE*

Examiner

Daniel A. Nolan

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u>6</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____   |

### **DETAILED ACTION**

1. Issues arising from the language used in the immediate application require that this explanation be provided to distinguish between the separate processes of "voice recognition" and "speech recognition." Voice recognition identifies individuals by sound, while speech recognition derives meaning from utterances. The USPTO categorizes these separately as class/subclasses 704/246 and 704/251, respectively.

### ***Drawings***

2. As discussed with the Applicant on 02 August 2002, this application appears to have been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

3. The drawings are objected to because

- The "Y" path (130 in figure 1) can be re-labeled to read "Y – Condition Detected" as "monitoring" by itself is not a decision process.
- The grammatical number is incorrect in the label of 183 (figure 6).
- The drawings do not agree with the specification as discussed with the Applicant.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

- Items 230 & 240 (figure 2).
- Items 1611-1615 (figure 5).
- Item 183 (figure 6).
- Items 403 & 4021-4027 (figure 7).
- Item 1811a (figure 8).

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description, such as:

- Figure 3c is not included in the drawings (page 48 line 13).
- Figure 3b is not included (page 21 line 10).
- Figure 1c is not in the drawings (page 45 line 10).

6. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

7. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification, such as:

- "Voice recognition" should be "speech recognition" in the following:
  - ✓ Page 7 line 15 (because language is discerned).
  - ✓ Page 44 line 3 as words are recognized (in at least the 2<sup>nd</sup> instance).
  - ✓ 4<sup>th</sup> line Page 64 (as PIN number is identified).
- A hyphen is needed for "re-prompt" (last line of page 18)
- Underscoring must be removed from "e.g." (as on page 26 lines 11, 13, 17, etc.).
- "VSS" (page 31 line 9) should be defined when introduced (instead of on page 37 line 8).
- The drawings do not agree with the specification, as noted previously.

8. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Speech Input For Creation and Automatic Deployment of Interactive Personalized Voice Services".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Richard et al**

9. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Richard et al (U.S. Patent 5,924,068).

10. Regarding claims 1 and 11, having established modular construction as an inherent feature (column 12 lines 61-67), Richard et al (figure 25) reads on the features, as:

- *sensing a voice input command from the subscriber (330).*
- *selecting at least one of a plurality of voice messages to deliver (338).*

**Meador III et al**

11. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Meador III et al (U.S. Patent 5,638,425).

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12. Regarding claims 1 and 11, having established modular construction as an inherent feature (column 12 lines 61-67), Richard et al (figure 25) reads on the features, as:

- *sensing a voice input command from the subscriber (330).*
- *selecting at least one of a plurality of voice messages to deliver (338).*

*an input module, the input module sensing a voice input command from the subscriber; and*

*a content delivery module, communicating with the input module, the content delivery module selecting at least one of a plurality of voice messages to deliver according to the voice input command.*

**Logan et al**

13. Claims 1 and 11 are rejected under 35 U.S.C. 102(a) as being as being anticipated by Logan et al (U.S. Patent 5,721,827).

14. Regarding claims 1 and 11, Logan et al (Abstract) reads on the features, as:

- *sensing a voice input command from the subscriber (18<sup>th</sup> line).*
- *selecting at least one of a plurality of voice messages to deliver (20<sup>th</sup> line).*

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15. Regarding claims 2 and 12; the claims are set forth with the same limits as claims 1 and 11, respectively. Logan et al discloses that the sound card contains an *A/D converter* (column 3 line 24).

16. Regarding claims 3 and 13; the claims are set forth with the same limits as claims 1 and 12, respectively. Logan et al discloses that the sound card contains an *A/D converter* (column 4 line 22).

17. Regarding claims 4 and 14; the claims are set forth with the same limits as claims 1 and 13, respectively. Logan et al discloses the feature of *a communicating with the input module and the content delivery module and identifying the digital voice data as at least one of a plurality of predetermined commands* (as in column 32 line 27).

18. Regarding claims 5 and 15; the claims are set forth with the same limits as claims 4 and 14, respectively. Logan et al discloses the feature of *presenting voice message content according to the digital voice data* (as in column 10 line 48).

19. Regarding claims 6 and 16; the claims are set forth with the same limits as claims 5 and 15, respectively. Logan et al discloses the feature of *at least one voice command prompt to query voice input from the subscriber* (as in column 12 line 50).



20. Regarding claims 7 and 17; the claims are set forth with the same limits as claims 6 and 16, respectively. Logan et al (column 15 line 21) discloses the feature of a *sequence of voice command prompts*.

21. Regarding claims 8 and 18; the claims are set forth with the same limits as claims 7 and 17, respectively. Logan et al (in the Abstract) discloses the feature of a *set of voice command prompts adaptively presented according to the digital voice data* (in lines (lines 6-16)).

22. Regarding claims 9 and 19; the claims are set forth with the same limits as claims 1 and 11, respectively. Logan et al (column 10 line 9) reads on the feature of *authenticating the subscriber for receipt of the voice messages*.

23. Regarding claims 10 and 20; the claims are set forth with the same limits as claims 9 and 19, respectively. Logan et al (column 10 line 13) reads on the feature that *the authentication comprises at least one of PIN verification and voice identification*.

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***Claim Rejections - 35 USC § 103***

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Csaszar et al**

26. Claims 1 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Csaszar et al (U.S. Patent 5,970,124).

27. Regarding claims 1 and 11, Csaszar et al (30 figure 1) reads on the features, as:

- *sensing a voice input command from the subscriber* (take order).

- *selecting at least one of a plurality of voice messages to deliver* (play grades).

While Csaszar et al does not specify that these features are performed by *modules*, the well-known recommendation that computer program architectures be so modularized would have made it obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to employ modular construction to enable separate development and isolate discrete operations for maintenance.

### ***Conclusion***

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Farris et al (U.S. Patent 6,404,858) responds to a menu of pre-recorded commands in a speech prompt sequence with the full gamut of features claimed in the immediate application.
- Newlin (U.S. Patent 6,011,579) provides messaging under voice-controlled menus disclosing the features claimed in the immediate application.

29. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Daniel A. Nolan at telephone (703) 305-1368 whose normal business hours are Mon, Tue, Thu & Fri, from 7 AM to 5 PM.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

The fax phone number for Technology Center 2600 is (703) 872-9314. Label informal and draft communications as "DRAFT" or "PROPOSED", & designate formal communications as "EXPEDITED PROCEDURE".

Formal response to this action may be faxed according to the above instructions, or mailed to:

Box AF  
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or hand-delivered to:

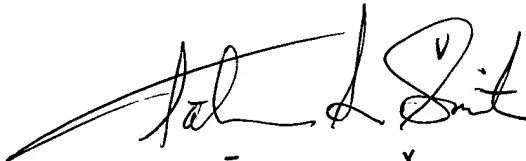
Crystal Park 2,  
2121 Crystal Drive, Arlington, VA,  
Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office at telephone number (703) 306-0377.

Daniel A. Nolan  
Examiner  
Art Unit 2654

dan

August 2, 2002



TĀIVALDIS MĀRS SMITS  
PRIMARY EXAMINER